

# MEMORANDUM

Agenda Item No. 7(C)

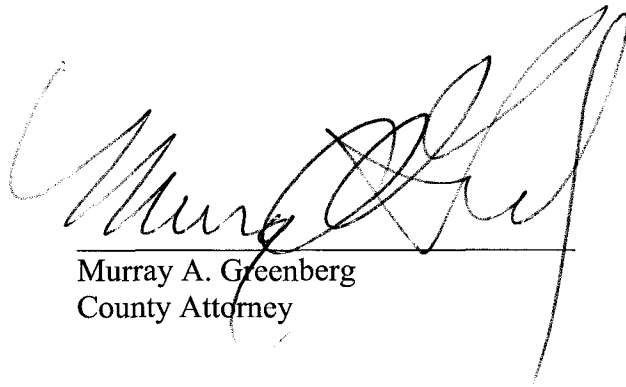
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<b>TO:</b>	Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners	<b>DATE:</b>	(Second Reading 03-21-06) December 6, 2005
<b>FROM:</b>	Murray A. Greenberg County Attorney	<b>SUBJECT:</b>	Ordinance requiring emergency response plan from food stores during a local emergency

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The accompanying ordinance was prepared and placed on the agenda at the request of Chairman Joe A. Martinez, Commissioner Carlos A. Gimenez and Senator Javier D. Souto.

The attached item was amended in the Infrastructure & Land Use Committee with a directive to the County Manager to propose new dates for implementation. Once these proposed new dates are developed, a committee substitute will be prepared and presented for your consideration.



Murray A. Greenberg  
County Attorney

MAG/bw

# Memorandum



**Date:** March 21, 2006

**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:** George M. Burgess  
County Manager

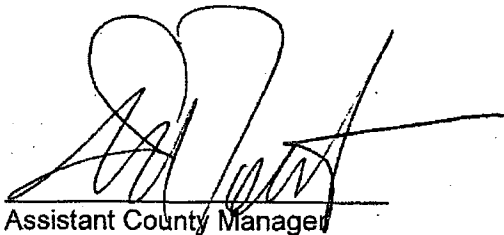
**Subject:** Ordinance Amending Chapters 8B and 8CC of the Code of Miami-Dade County  
Requiring Emergency Response Plan from Food Stores Located in the Incorporated  
and Unincorporated Areas for the Supply of Food During a Local State of Emergency

The proposed ordinance amending Chapters 8B and 8CC of the Code of Miami-Dade County requiring an emergency response plan from food stores located in the incorporated and unincorporated areas for supply of food during a local state of emergency may have a fiscal impact to Miami-Dade County.

The proposed ordinance requires food stores with more than 40,000 square feet, that sell food supplies at retail to the public, to create and implement a plan to provide for the retail sale of food supplies to the public within 24 hours following the declaration of a local state of emergency not later than June 1, 2006.

In order to implement this plan, the Office of Emergency Management (OEM) may require additional resources to receive, review, and inspect all emergency response plans submitted from food stores. OEM will also be responsible for enforcing the established penalties and procedures with assistance from the County's police power and through any other means of law. In addition, inspection of food stores would be required periodically to ensure plans submitted are adequate and maintained throughout the five-year plan period as outlined in the ordinance. Additionally, local businesses would be required to acquire an alternate power source and additional food supplies and storage capacity depending on the number of people to be served, as well as the number of days.

The number of businesses that will be impacted and consequently reviewed and monitored is difficult to estimate at this time. If the ordinance is adopted, the department will work with the County Manager's Office and the Office of Strategic Business Management to assess the need for additional resources.



Assistant County Manager

Fiscal 01106



# MEMORANDUM

(Revised)

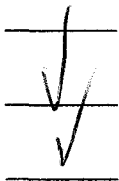
**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** March 21, 2006

**FROM:** Murray A. Greenberg  
County Attorney

**SUBJECT:** Agenda Item No. 7(C)

Please note any items checked.



"4-Day Rule" ("3-Day Rule" for committees) applicable if raised

6 weeks required between first reading and public hearing

4 weeks notification to municipal officials required prior to public hearing

Decreases revenues or increases expenditures without balancing budget

Budget required

Statement of fiscal impact required

Bid waiver requiring County Manager's written recommendation

Ordinance creating a new board requires detailed County Manager's report for public hearing

Housekeeping item (no policy decision required)

No committee review

Approved \_\_\_\_\_ Mayor

Agenda Item No. 7(C)

Veto \_\_\_\_\_

03-21-06

Override \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

**ORDINANCE REQUIRING EMERGENCY RESPONSE PLAN FROM FOOD STORES LOCATED IN THE INCORPORATED AND UNINCORPORATED AREAS FOR THE SUPPLY OF FOOD DURING A LOCAL STATE OF EMERGENCY; ESTABLISHING DEFINITIONS; PROVIDING FOR MINIMUM CONTENTS OF THE PLAN INCLUDING THE REQUIREMENT OF THE UNINTERRUPTED SUPPLY OF POWER; PROVIDING FOR APPROVAL BY THE DIRECTOR OF THE OFFICE OF EMERGENCY MANAGEMENT; PROVIDING FOR EXEMPTIONS FOR LIMITED PERIODS; ESTABLISHING PENALTIES AND ENFORCEMENT PROCEDURES, AMENDING CHAPTERS 8B AND 8CC OF THE CODE, PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE**

**WHEREAS**, Hurricane Wilma made landfall in South Florida in the morning hours of October 24, 2005; and

**WHEREAS**, the hurricane created a serious crisis throughout the region in the public's ability to purchase food supplies as a result of widespread power outages that rendered inoperable a very large percentage of the food stores in the region; and

**WHEREAS** the protection of this community requires that this situation not be repeated and these food stores remain open to the public to supply essential goods during times of emergency need; and

**WHEREAS** the Office of Emergency Management through its Director has been charged with the responsibility of performing emergency management functions within the territorial limits of Miami-Dade County; and

**WHEREAS** the coordinated planning of these efforts on a County-wide basis is in the best interest of the citizens of incorporated and unincorporated Miami-Dade County; and

**WHEREAS** these measures are essential to the protection of the safety of our community in the event of emergency conditions created by the recently experienced more active hurricane seasons, among others,

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:**

Section 1. Chapter 8B of the Code of Miami-Dade County is hereby amended by the addition of the following new section:

**CHAPTER 8B - EMERGENCY MANAGEMENT**

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Sec. 8B-17 Planning related to food stores.

1. This Section shall apply to food stores located within incorporated or unincorporated Miami-Dade County. For purposes of this Section a food store shall be any business establishment containing more than forty thousand (40,000) square feet of floor area, which sells food supplies at retail to the public including supermarkets and grocery stores. Food stores shall not include restaurants, coffee shops, delicatessens, bakeries or similar establishments which exclusively serve prepared or cooked foods. Food supplies shall mean canned and non-perishable foods and water.

2. Food stores are required to create and implement a plan to provide for the retail sale of food supplies to the public within twenty-four (24) hours following the declaration of a local state of emergency pursuant to this Chapter (the "Food Store Emergency Plan").

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3. The Food Store Emergency Plan shall document the food store's ability to provide for the retail sale of food supplies on an uninterrupted basis not later than June 1, 2006 and shall provide, at a minimum:

- (a) An alternate source of power (the "Alternate Source") shall be sufficient to provide lighting and ventilation as necessary to open the food store to the general public during normal business hours and sell food supplies.
- (b) In the event that the Alternate Source requires the installation of permanent equipment, a schedule showing the purchase or lease of the equipment and providing installation not later than June 1, 2006.
- (c) In the event that the Alternate Source requires construction or otherwise the obtaining of a building permit, a schedule for obtaining a permit not later than March 1, 2006 and a certificate of occupancy not later than June 1, 2006.
- (d) A maintenance plan for any and all equipment related to the Alternate Source.
- (e) Plans for the recall of food store personnel essential to the task of dispensing food supplies.
- (f) Identification of the owner, manager or person having operational control of the food store and, if different, emergency contact personnel charged with implementing the plan.

4. Each owner of a food store shall deliver the required Food Store Emergency Plan to the Director not later than February 1, 2006. For food stores which are not in possession of a

certificate of use and occupancy as of the effective date of this Section, the required Food Store Emergency Plan shall be delivered to the Director not later than 90 days following the date of such certificate and shall provide for implementation within 180 days of submission of the plan.

5. The Director shall review each Food Store Emergency Plan to determine in his or her discretion whether such plan complies with the requirement of this ordinance and otherwise provides for the protection of public safety by allowing for the distribution of food during disaster conditions.

6. The Director shall reject any Food Store Emergency Plan within thirty (30) days of its submission by notifying the person identified in the plan. The Director shall wherever possible identify the reasons for rejection and provide an opportunity to cure. Failure to notify a rejection shall be deemed approval of the plan.

7. Food stores shall at all times abide by the provisions of the approved Food Store Emergency Plan, including any and all deadlines set forth in the approved schedule. The Food Store Emergency Plan shall be in effect for a period of five (5) years and shall be binding on all subsequent owners and operators of the food store. A new Emergency Food Store Plan shall be submitted for approval not later than sixty (60) days prior to the expiration of the plan in effect.

8. In the event of any material change with respect to any of the provisions of the Food Store Emergency Plan the revisions shall be communicated to the Director in writing, for the Director's approval, wherever possible in advance of the proposed change and in no event later than sixty (60) days following the adoption of the change.

9. Failure to abide by the provisions of this Section shall be punishable by civil fine in the manner established by Chapter 8CC of this Code, with each day of violation constituting a separate offense. The provisions of this Chapter shall also be enforceable through injunctive

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relief as a means of protection of the public interest through the exercise of the County's police power, and through any other means available at law.

10. The Director shall be entitled, in his or her discretion, to exempt a food store from the requirements of this Section based upon criteria to be applied uniformly and approved by resolution of this Board. The criteria may include size, volume and location of the food store.

11. This Section shall preempt and supersede any inconsistent municipal ordinance to the same effect.

12. Nothing in this Section shall be interpreted to curtail, impede or otherwise affect the discretionary authority of the County in the exercise of its police power, administrative or regulatory functions

Section 2. Chapter 8CC of the Code of Miami Dade County is hereby amended as follows:<sup>1</sup>

Chapter 8CC

**CODE ENFORCEMENT**

\* \* \*

**Sec. 8CC-10. Schedule of civil penalties.**

\* \* \*

Code Section	Description of Violation	Civil Penalty
>> <u>8B-16</u>	<u>Failure to file or abide by Food Store Emergency Plan</u>	<u>\$500.00</u> <<

<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.



Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
To form and legal sufficiency:



Prepared by:



Hugo Benitez

Sponsored by Chairman Joe A. Martinez,  
Commissioner Carlos A. Gimenez and  
Senator Javier A. Souto